

HAROLD BAER
U.S. DISTRICT JUDGE
S. D. N.Y.

MICHAEL A. CARDOZO
Corporation Counsel

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August 3, 2007

BY FIRST CLASS MAIL

Honorable Harold Baer, Jr.
United States District Judge
Southern District of New York
500 Pearl Street, Room 2230
New York, New York 10007

Re: Stephanie Alexis Melendez and Eric Cruz v. The City of New York, et al. 07 Civ. 6511
(HB)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendant City of New York.¹ I am writing with respect to the above-referenced matter in which plaintiffs allege that they were falsely arrested and that excessive force was used against them. Defendant City respectfully requests that Your Honor (1) grant defendant City an extension of time to answer or otherwise respond to this complaint from August 8, 2007 until October 8, 2007, and (2) adjourn the Pre-Trial Conference scheduled for September 20, 2007 at 4:00 p.m. until after defendant City has had the opportunity to answer or otherwise respond to the complaint. Plaintiffs consent to this request, and pursuant to Your Honor's individual rules, a copy of the docket report is enclosed.

¹ Upon information and belief, the individually named defendants have not yet been served in this matter. Therefore, should the Court grant this enlargement, it should allow plaintiffs time to serve the individual defendants. If timely served, it may also give this office time to determine, pursuant to Section 50-k of the New York General Municipal law, and based upon a review of the facts of the case, whether we may represent them. *See Mercurio v. The City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

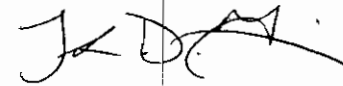
There are several reasons for seeking an enlargement of time in this matter. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. Furthermore, it is our understanding that the records of the underlying criminal action, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, this office is in the process of forwarding to plaintiffs for execution a consent and authorization for the release of sealed arrest and criminal prosecution records so that defendant City can access the information, properly assess the case, and respond to this complaint.

Moreover, plaintiffs allege that excessive force was used against them. Accordingly, it is necessary for our office to obtain plaintiffs' medical records from the period in question in order to properly assess the case and respond to the complaint. Currently, this office is in the process of forwarding to plaintiffs for execution a medical release. This executed release is necessary for our office to obtain the medical records pertaining to plaintiffs' alleged injury and treatment.

No previous request for an extension has been made by defendant City. Accordingly, we respectfully request that (1) defendant City's time to answer or otherwise respond to the complaint be extended to October 8, 2007, and (2) Your Honor adjourn the Pre-Trial Conference scheduled for September 20, 2007 at 4:00 p.m. until after defendant City has had the opportunity to answer or otherwise respond to the complaint.

Thank you for your consideration herein.

Respectfully submitted,



Shawn D. Fabian (SF4606)
Assistant Corporation Counsel
Special Federal Litigation Division

SO ORDERED:

Harold Baer, Jr., U.S.D.J.

Date: 8/14/07

cc: Scott G. Cerbin, Esq. (By First Class Mail without enclosure)
Attorney for Plaintiff
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Brooklyn, New York 11242